

Livestock Sellers' Rights under P&S Act Trust Provision

The trust provision of the Packers and Stockyards Act (P&S Act) provides a measure of protection to those who sell livestock to meat packers and do not get paid. The protection, however, is not available in all cases and is not automatic.

Who is protected?

Cash Sellers of Livestock are protected.

Cash sellers of livestock (producers, dealers, and market agencies) are protected by the trust provisions of the P&S Act. The provisions do not protect sellers who expressly extend credit. Livestock sellers must be careful about what is agreed to and what is signed.

- For example, when livestock is delivered, the parties in the transaction agree that a check may be mailed to the seller by the close of the next business day or, in the case of a sale on a grade-and-yield basis, by the close of the first business day after the purchase price is determined. This does not constitute an extension of credit, and trust provisions of the P&S Act do apply. A suggested example of an agreement for mailing a check without extending credit appears near the end of this document.

Read documents carefully before signing.

The prompt payment provision of the P&S Act permits express written agreements between buyers and sellers about payment. These agreements have sometimes been included in small print on stockyard receipts, scale tickets, and other documents. Read everything you sign carefully, including the fine print. Never sign anything you do not understand. If you do not understand what you are signing, you could compromise your interest in the trust assets.

What to do if you do not get paid.

First, notify in writing, both the packer and the nearest P&SP regional office that the packer has failed to pay for livestock. The notice can be given by letter, mailgram, or telegram, but it must be in writing. An example for this notice appears near the end of this. If you do not give the required written notice, you lose the benefit of the trust provisions.

Is there a time limit for giving notice?

Do not delay in giving your notice, or you may lose the benefit of the trust provisions of the P&S Act.

15 days instrument not honored

If a payment instrument is not honored for any reason (for example, a check bounces) notify the packer and the nearest P&SP regional office within 15 business days after you receive notice that the instrument has been dishonored.

30 days instrument not received.

If payment instrument is not received (check is not received) and if the sale was not on a grade-and-yield basis, the time limit for notification is 30 days, after the next business day, following purchase and transfer of possession of the livestock.

30 days grade-and-yield

If payment instrument is not received and if the sale was on a grade-and-yield basis, the time limit is 30 days, after the first business day, following determination of the purchase price.

"Protecting the integrity of livestock, meat, and poultry markets for the benefit of American Agriculture."

Which packers are subject to the P&S Act trust provisions?

Not all packers are subject to P&S Act trust provisions. Packers whose average annual purchases of livestock exceed \$500,000 are subject to the trust provisions of the P&S Act. If you cannot determine if a packer is subject to trust provisions, contact the nearest P&SP regional office.

What property of a packer is subject to a trust?

Not all property of a packer is subject to a trust. Livestock bought in cash sales, inventories, receivables, and proceeds derived from that livestock are subject to a trust. Other property, such as plant equipment and buildings, is not subject to such a trust.

What can USDA do?

USDA can penalize a packer for failing to pay for livestock, as a violation of the P&S Act. While these proceedings are in progress, USDA can ask a court to enjoin a packer from future violations of the P&S Act, USDA, however, cannot furnish you with a lawyer to collect payment for you, nor compel a packer to pay you.

What can a court do?

A court can order a packer to hold the specified property in trust for the benefit of unpaid cash sellers of livestock who have given the required notice. A court can only order this upon receiving a written complaint. A complaint may be filed by any unpaid cash seller of livestock.

The court has issued an order, what are the next steps?

If a court order is issued, unpaid cash sellers, must petition the court to order payment from the property being held in trust. If you do not file a petition, the court may order that property be distributed to other unpaid cash sellers who have filed a petition.

Packers and Stockyards Program Regional Offices:

GIPSA, P&SP
Eastern Regional Office (National Office for Poultry)
Suite 230
75 Spring Street
Atlanta, GA 30303

Phone: 404-562-5840
Fax: 404-562-5848

Alabama, Arkansas, Connecticut, District of Columbia, Delaware, Florida, Georgia, Louisiana, Massachusetts, Maryland, Maine, Mississippi, North Carolina, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, Vermont, West Virginia

GIPSA, P&SP

Midwestern Regional Office (National Office for Hogs)

Federal Building

Room 317

210 Walnut Street

Des Moines, IA 50309

Phone: 515-323-2579

Fax: 515-323-2590

Iowa, Illinois, Indiana, Kentucky, Ohio, Michigan, Missouri, Minnesota, North Dakota, South Dakota, Wisconsin

GIPSA, P&SP

Western Regional Office (National Office for Cattle and Sheep)

1 Gateway Centre

3950 Lewiston, Suite 200

Aurora, CO 80011

Phone: 303-375-4240

Fax: 303-371-4609

Alaska, Arizona, California, Colorado, Hawaii, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, Wyoming

Sample Agreement

The following sample may be used as a written agreement between buyer and seller for mailing a check without extending credit:

I _(Name)_____ do not intend to be present at the point of transfer of possession of livestock sold by me to (name of packer, market agency, or dealer) _____ for the purpose of receiving a check in payment for such livestock.

I hereby direct (name of packer, market agency or dealer) _____ to make payment for livestock purchases from me, by mailing a check for the full amount of the purchase price before possession thereof or, in the case of a purchase on a "carcass" or "grade and yield" basis, not later than the close of the first business day following determination of the purchase price.

This does not constitute an extension of credit to (name of packer, market agency, or dealer). This is subject to cancellation by me at any time, and if not canceled by (date), it shall terminate on that date.

Name: _____

Date: _____

(Omit the first statement if the seller prefers to receive payment by a mailed check for other reasons.)



The following sample can be used for notifying the packer and the nearest P&SP regional office that the packer has failed to pay for livestock. Send a copy of this from to the packer and nearest P&SP regional office.

Notification to Preserve Trust Benefits

Identification of packer: _____

Identification of seller: _____

Date of transaction: _____

Date of seller's receipt of notice that a payment instrument has been dishonored (if applicable):

Amount of money due: \$ _____